

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Barry Trantham,

Plaintiff,

v.

Hartford Life and Accident Insurance
Company,

Defendant.

Case No. 09-14137

Honorable Nancy G. Edmunds

**ORDER ACCEPTING AND ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

This matter has come before the Court on the Magistrate Judge's November 3, 2010 Report and Recommendation. Being fully advised in the premises and having reviewed the record and the pleadings, including Plaintiff's Objections, the Court hereby ACCEPTS and ADOPTS the Magistrate Judge's Report and Recommendation. Plaintiff's objections take issue with the Magistrate's Judge's Report and Recommendation finding that the Plaintiff did not present "objective evidence" of his disability, among various other objections. The Report and Recommendation is consistent with Sixth Circuit precedent, which "suggests that it is entirely reasonable for an insurer to request objective evidence of a claimant's functional capacity." *Rose v. Hartford Fin. Serv. Group*, 268 F. App'x 444, 453 (6th Cir. 2008) (finding that an insurer did not act arbitrarily when it denied the plaintiff's long-term disability benefits for her fibromyalgia and chronic fatigue syndrome because the plaintiff did not present objective evidence that her disability affected her functional capacity, as the

insurer requested). Plaintiff here failed to present objective evidence of his functional capacity as requested by Defendant.

It is therefore ordered that Plaintiff's motion for judgment is DENIED and Defendant's cross motion for judgment is GRANTED, and the case is hereby DISMISSED.

SO ORDERED.

s/Nancy G. Edmunds
Nancy G. Edmunds
United States District Judge

Dated: January 4, 2011

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 4, 2011, by electronic and/or ordinary mail.

s/Carol A. Hemeyer
Case Manager